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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,726	09/29/2003	Bryce Xiaobo Xue	71125	1922
23872	7590	03/08/2006	EXAMINER	
MCGLEW & TUTTLE, PC P.O. BOX 9227 SCARBOROUGH STATION SCARBOROUGH, NY 10510-9227			AL AUBAIDI, RASHA S	
			ART UNIT	PAPER NUMBER
			2642	

DATE MAILED: 03/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/673,726

Applicant(s)

XUE, BRYCE XIAOBO

Examiner

Rasha S. AL-Aubaidi

Art Unit

2642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-10 is/are allowed.
- 6) ☒ Claim(s) 11-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

1. Applicant's amendment filed on November 16, 2005 has been entered. Claims 11, 13, 15, 17 and 20 have been amended. Claims 12, 14, 16 and 22 have been canceled. Claims 23-24 have been added. Claims 11-24 are now pending in this application, with claims 11 and 23 being independent.

Allowable Subject Matter

2. Claims 1-10 are allowed.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 11, 13, 15 and 17-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding independent claim 11, it appears that independent claim 11 recites two "engagement surface^s", the first time was discussed on line 13, page 5 of the claims and the second time was discussed was on line 20 of page 6 of the claims. It is unclear whether the claimed "engagement surface" that was repeated twice basically refers to the same "engagement surface" or not.

Dependent claims 13, 15 and 17-21 are rejected for the same reasons as independent claim 11.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 11, 13, 15, 17-18, 20-21 and 23-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Nogas et al. (US 6351535).

Regarding claim 11, Nogas shows:

A housing (16) with a stand pivot mount (40) on the bottom side, and with an interaction surface (12) on the top side;

A single piece stand (20) having a first end (see 34) connected to the housing (16) via the pivot mount (34) and pivoting relative to the housing (16) about the pivot mount (4) through a range of angular positions (figs. 1-2), the stand (20) having a second end (opposite to 34) with surface engagement areas for engagement with a support surface (i.e. desk top);

Latch means (62, 64) for setting the stand (2) at an angular position (figs. 1-2).

First and second legs (54);

A finger catch (see 50 in fig. 8) and its latching and releasing (figs. 9-10);

First and second hinge parts (34);

A resilient portion which is generic for thermoplastic elastomer portion (col. 3, lines 31-32).

Regarding claims 13, 15, 17-18, 20-24, Nogas shows:

Ridge with a leading edge and a trailing edge (see 24), and grooves with complementary leading and trailing edges (see 22, see also figs. 9-10);

A ratchet structure (see 62, 64);

A finger catch (see 50 in fig. 8) and its latching and releasing (figs. 9-10);

The curved and concave engagement and fixing surface (see 22, 24);

First to fourth cooperating hinge mounting parts (46, 40, 30, 46) and first and second hinge parts (34);

The latch includes housing groove teeth and complementary stand teeth (62, 64); and

The stand (20) can comprise a plastic portion (col. 3, line 48) and a resilient portion, which is generic for thermoplastic elastomer portion (col. 3, lines 31-32).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nogas in view of Jarrett (US 5432836).

Regarding claim 19, Nogas shows:

A housing (16) with a pivot mount (40), a fixing surface (see 64);

A support piece (20) connected to the base via the pivot mount (40) for pivoting movement between a wall mount position (fig. 1) and an extended position (fig. 2);

The support piece (20) includes an engagement surface (22, 58), which engages the fixing surface (see 64) to fix the support piece (20) at an angular position between the wall mount position (fig. 1) and the extend position (fig. 2).

Nogas differs from the claimed invention in that it does not explicitly mention that the housing has a first wall mount receiving portion, and the support piece has a second wall mounting receiving portion.

However, Nogas has taught the concept of the wall mounting. Further, Jarrett teaches providing a housing has a first wall mount-receiving portion (54-55), and a support piece has a second wall mounting-receiving portion (50-51).

Hence, it would have been obvious for one of ordinary skill in the art to provide the wall mount receiving portions in Nogas's respective housing and support piece with the teaching of Jarrett, because the concept of providing a wall mounting is well taught by Nogas, whether these wall mount receiving portions are on the support piece, or on

both the housing and the support piece would be considered as a variation of Nogas, because the basic concept of the wall mounting feature is substantially unchanged.

Response to Arguments

9. Applicant's arguments filed 11/16/2005 have been fully considered but they are not persuasive.

Arguments regarding independent claim 1 and dependent claims 2-10 are moot since the claims are allowed.

Applicant's argues " advantageous as highlighted in claim 11 with the further provision of the finger catch release portion also being centrally located ...". It appears that the argued limitations (although not recited in the claims) are not ^{taught} by the prior art of record.
↑

For all other arguments regarding the remaining claims, the Examiner believes that these arguments are already addressed in the above rejection.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rasha S AL-Aubaidi whose telephone number is (571) 272-7481. The examiner can normally be reached on Monday-Friday from 8:30 am to 5:30 pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad F. Matar, can be reached on (571) 272-7488.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Examiner
Rasha S. Al-Aubaidi
Art Unit 2642
03/02/2006


AHMAD MATAR
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600